

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0165P

**Sales Tax
Calendar Year 1999**

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed for failing to remit sales tax for calendar year 1999.

Taxpayer maintains its headquarters in the state of Indiana and has several business locations. Taxpayer remitted its full year sales tax return timely but failed to make payment in full. The department disallowed the collection allowance and assessed a ten percent (10%) negligence penalty.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer failed to make full payment with its sales tax return. The department disallowed the collection allowance and assessed a penalty.

Taxpayer requests a waiver of penalties because it filed its return timely. Taxpayer states it has a reasonable claim due to the incorrect filing status assigned to them by the state. The liability for calendar year 1998 was \$489,183.16; therefore it should have been assigned a filing status of monthly instead of annually.

Taxpayer made a partial payment of \$189,275 with a tax balance due of \$505,025 that was assessed a ten percent (10%) penalty. Sales tax is a trust tax that is due upon collection. Taxpayer retained the funds to purchase vehicles for future sales. Taxpayer had no right to utilize the trust funds.

The taxpayer was negligent in failing to remit the sales tax collected and has not provided reasonable cause for failure to do so. Taxpayer had full use of state funds for the year at issue.

FINDING

Taxpayer's protest is denied.